

AO 243 (Rev. 01/15)

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MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT

SENTENCE BY A PERSON IN FEDERAL CUSTODY

2021 AUG -5 PM 2:32

United States District Court		District Southern District of New York
Name (under which you were convicted): Luis A. Vazquez-Diaz		Docket or Case No.: None
Place of Confinement: Medical Center Federal Prisoners		Prisoner No.: 49681-054
UNITED STATES OF AMERICA		Movant (include name under which convicted) v. Luis A. Vazquez-Diaz

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:
No Judgment or conviction. From illegally held, since 2000. No Federal case

(b) Criminal docket or case number (if you know): None

2. (a) Date of the judgment of conviction (if you know): None

(b) Date of sentencing: None

3. Length of sentence: None

4. Nature of crime (all counts): None

Dejo vu retaliation

5. (a) What was your plea? (Check one)

(1) Not guilty ☒ none (2) Guilty ☐ (3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

None

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☐

8. Did you appeal from the judgment of conviction? Yes ☐ No ☐ All None

9. If you did appeal, answer the following:

- (a) Name of court: NONE
- (b) Docket or case number (if you know): NONE
- (c) Result: NONE
- (d) Date of result (if you know): NONE
- (e) Citation to the case (if you know): NONE
- (f) Grounds raised: NONE

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

- (1) Docket or case number (if you know): NONE
- (2) Result: NONE
- (3) Date of result (if you know): NONE
- (4) Citation to the case (if you know): NONE
- (5) Grounds raised: NONE

De jure retaliation

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: Southern District of New York City
- (2) Docket or case number (if you know): Not to remember
- (3) Date of filing (if you know): January or February, 2000
- (4) Nature of the proceeding: Habeas Corpus 28 USC § 2254
- (5) Grounds raised: illegally held in state prison in New York
violation of constitutional rights as presently held

From the Court of Appeals (2nd Cir) which granted me my release in 2000 to the present time I have been in court

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☒

(7) Result: NONE

(8) Date of result (if you know): NONE

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: NONE

(2) Docket of case number (if you know): NONE

(3) Date of filing (if you know): NONE

(4) Nature of the proceeding: NONE

(5) Grounds raised: NONE

Personal problems

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☒

(7) Result: NONE - Haven't call to court

(8) Date of result (if you know): NONE

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☒ No ☐

(2) Second petition: Yes ☐ No ☒ none

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

I did appeal to the Court of Appeals (2nd Cir) in New York City

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

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GROUND ONE: Violation of constitutional rights Amends 5th;
8th; and 14th

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Illegally held since 2000 - personal problems

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

no comment or contest

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: NONE

Name and location of the court where the motion or petition was filed:

NONE

Docket or case number (if you know): NONE

Date of the court's decision: NONE

Result (attach a copy of the court's opinion or order, if available):

NONE

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☒

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(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

_____ NONE _____
 Docket or case number (if you know): _____ NONE _____

Date of the court's decision: _____ NONE _____

Result (attach a copy of the court's opinion or order, if available):

_____ NONE _____
 (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: No Federal case or detention

GROUND TWO: _____ NONE _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

NONE

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

_____ No Federal case or detention _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

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(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: NONE

Name and location of the court where the motion or petition was filed:

NONEDocket or case number (if you know): NONEDate of the court's decision: NONE

Result (attach a copy of the court's opinion or order, if available):

NONE

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

NO - NONEDocket or case number (if you know): NONEDate of the court's decision: NONE

Result (attach a copy of the court's opinion or order, if available):

NONE(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: No Federal case or detention**GROUND THREE:** NONE

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

NONE

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

no federal case or detention**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: NONE

Name and location of the court where the motion or petition was filed:

NONEDocket or case number (if you know): NONEDate of the court's decision: NONE

Result (attach a copy of the court's opinion or order, if available):

NONE

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

NO- NONEDocket or case number (if you know): NONEDate of the court's decision: NONE

Result (attach a copy of the court's opinion or order, if available):

NONE

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(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: No federal case or detention

GROUND FOUR: None

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

None

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

No federal case or detention

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: None

Name and location of the court where the motion or petition was filed:

None

Docket or case number (if you know): None

Date of the court's decision: None

Result (attach a copy of the court's opinion or order, if available):

None

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(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

no - NONEDocket or case number (if you know): NONEDate of the court's decision: NONE

Result (attach a copy of the court's opinion or order, if available):

NONE(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: No Federal case or detention13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:no - NO comments or contest14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. NONE

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15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:

(a) At the preliminary hearing:

NONE

pro-se

(b) At the arraignment and plea:

NONE

(c) At the trial:

NONE

(d) At sentencing:

NONE

(e) On appeal:

NONE

(f) In any post-conviction proceeding:

NONE

(g) On appeal from any ruling against you in a post-conviction proceeding:

NONE

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

NONE - no Federal case or detention

(b) Give the date the other sentence was imposed: NONE

(c) Give the length of the other sentence: NONE

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

no judgment or conviction

NONE

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief:

This petition is in support of the petition 2284 I filed in 2000 in which the Court of Appeals granted my release.
or any other relief to which movant may be entitled.

pro-se
Luis A. Vazquez-Diaz
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on August 2, 2021
(month, date, year)

Executed (signed) on Luis A. Vazquez-Diaz (date) 8-2-21

Luis A. Vazquez-Diaz
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

is A. V. 2020-0122, 48631-034
Federal Center for Federal Prisoners
P.O. Box 4000
Springfield, Missouri 65801-4000

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To: Pro-Se Office
U.S. Court House
500 Pearl Street
New York, NY 10007-1312

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